

SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED,

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and **UNITED CORPORATION**

Defendants and Counterclaimants.

vs.

**WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED, and
PLESSEN ENTERPRISES, INC.,**

Counterclaim Defendants,

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED, *Plaintiff,*

vs.

UNITED CORPORATION, *Defendant.*

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED, *Plaintiff*

vs.

FATHI YUSUF, *Defendant.*

FATHI YUSUF, *Plaintiff,*

vs.

MOHAMMAD A. HAMED TRUST, *et al,*
Defendants.

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,
Defendant.

Case No.: SX-2012-CV-370

**ACTION FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-17-CV-384

Consolidated with

Case No.: ST-18-CV-219

**HAMED'S REPLY TO YUSUF'S OPPOSITION TO HAMED'S MOTION FOR
SUMMARY JUDGEMENT RE HAMED REVISED CLAIMS: H-16—NEJEH YUSUF'S
USE OF PARTNERSHIP RESOURCES AND H-34—RENTS COLLECTED, BUT NOT
DEPOSITED IN THE PARTNERSHIP ACCOUNT**

I. Hamed Revised Claim H-16—Nejeh Yusuf took Plaza Extra-Tutu assets that should be returned

When it became clear that the families were in a dispute about the stores and the Partnership in 2012 and more particularly that Hamed was going to get the Tutu store, Nejeh Yusuf was taking a bunch of small items, charging personal items or withholding regular rental income from the Partnership. This is not a huge series of claims, but it is very, very galling to have the father trying to steal all of Hamed's half of the Partnership claiming Mohammad Hamed was just some illiterate old guy who worked in the back of the store, while the son was also taking and doing whatever he wished in a fit of pique. This claim is about the fact that the Court, while clearly agreeing that Yusuf did try to steal half the Partnership, has never been formally stated that fact out loud – and Yusuf's sons getting away with this sort of sleazy petty theft in those closing days.

A. Nejeh Yusuf admits he took Plaza Extra-Tutu assets that should be returned

1. Pressure Washer

It is undisputed that Nejeh Yusuf took a pressure washer to his home from the Plaza Extra Tutu store and has not returned it. No excuse or explanation. He wanted it, he took it. Perhaps to show that he would not be controlled by the court or cowed by getting caught. Regardless, the equipment belonged to the Partnership at the time of sale/transfer, and now belongs to KAC357, the new owners of the Plaza Extra Tutu store. (SOF ¶ 11) Period. Full stop.

It is not be a huge amount, but although Yusuf has stated that KAC357 can have the pressure washer back, it still, after more than 7 years of litigation in which this is totally uncontested, has not been returned it to the Tutu store. (Yusuf Opposition at p.5.) Yusuf's position in deposition now is that it is now old and broken down -- no doubt

because it has be kept and used for the seven intervening years. In any case, it should be returned, or better yet, replaced. Just more arrogance.

2. Surveillance Cameras and Shipping

It is undisputed that NejeH Yusuf used Partnership resources to ship cameras for his personal business venture (Wireless Tech) from Florida to St. Thomas, VI. (Yusuf Opposition at p. 3 and SOF ¶ 9). NejeH Yusuf testified at his deposition on January 22, 2019, that he purchased these security cameras for Wireless Tech with separate funds but does not dispute that the shipping was paid by the Partnership. (SOF ¶ 9) In that case, at the very least, the amount of the shipping is owed. Again, the amount is not really the point – a record of what he was doing should be made.

3. Missing security cameras, laptop, computer, monitor and a TV

Waheed (“Willie”) Hamed testified on January 22, 2019 that NejeH Yusuf took security cameras, a laptop, a computer, a monitor and a TV belonging to Plaza Extra-Tutu shortly before the sale of the Tutu store (not the same day as the sale). (SOF ¶ 10) Willie Hamed said that only NejeH Yusuf could have taken the items because no one else in the store had access to the items other than Yusuf and himself. (SOF ¶ 10)

Similarly, Willie Hamed also testified that on the day of the sale of the Tutu store, he brought to Special Master Ross's attention that these items (the security cameras, laptop, monitor and TV) had been taken by NejeH Yusuf shortly before the sale. Special Master Ross directed him to make a claim for the items. (SOF ¶ 10) This is that claim.

4. Two signature requirement for Plaza Extra checks

Yusuf tries to argue that the requirement for each Plaza Extra check to be signed by one Yusuf family member and one Hamed family member meant that any time a check

was signed in this manner, Hamed was acquiescing to the expenditure. Nothing could be farther from the truth.

For example, on November 12, 2014, Attorney Holt sent an email to Judge Ross and Yusuf's attorneys regarding the Yusuf family's failure to sign checks to pay for Plaza Extra expenses put on the Hamed family's credit cards. (**Exhibit 9**) There was a practice in the past that each family would put an equal amount of Plaza Extra charges on their personal credit cards in order to earn equal amounts of points. This process broke down and resulted in members of the Yusuf family refusing to sign checks to pay the Hamed family's credit card balances. The Yusuf family also refused to sign checks for needed items in the stores if the Hamed family didn't sign checks for expenses the Hameds objected to, but were incurred by the Yusuf family. To keep the stores running in an orderly fashion, the Hamed family signed checks, even though they protested the expenditures. To say that a dual signature meant agreement with the expenditure is untrue.

In the instant case, Yusuf had control over the books as the Liquidating Partner, but did not offer any proof that Wireless Tech, rather than Plaza Extra, paid for its share of the security cameras. Further, Yusuf testified that the security cameras were paid for by either him personally or Wireless Tech. (SOL ¶ 9) In neither instance did Yusuf provide evidence that this was true—no cancelled check or receipt was provided showing that either Yusuf or Wireless Tech paid for the cameras. The fact that Hamed may have signed a check for the purchase of the security cameras does not mean Hamed agreed to pay for security cameras Wireless Tech planned to sell in its own stores.

II. Yusuf's should return all rents collected from the Triumphant Church and the auto body shop to the Partnership account

According to Nejeah Yusuf's own testimony, it is undisputed that rents from the Triumphant Church and an adjacent body shop were always regularly deposited in the Plaza Extra Partnership bank account. (SOL ¶ 12) It is undisputed that the rent for Triumphant Church was \$300 per month. (SOL ¶ 13) It is undisputed, according to Nejeah Yusuf, that once the litigation began, Fathi Yusuf unilaterally decided to keep the Triumphant Church rents after the split of the stores for himself, rather than having them deposited in the Plaza Extra Partnership bank account. (SOL ¶ 12)

Yusuf tries to muddy up this clear picture by claiming that the property where the Triumphant church is located belongs to United, and has filed a separate claim to that effect, and therefore Yusuf argues that this claim should not be decided at this time. Hamed has no idea why Yusuf continues to argue that claim determination should be delayed. The time for determination is now and the facts show that the money was always collected and deposited in the Partnership bank accounts. *If Yusuf thought this was incorrect, he could have filed his own claim requesting the return of the rents, but he did not.*

III. Conclusion

In conclusion, Hamed requests that the following assets belonging to Plaza Extra-Tutu be returned: the power washer, the security cameras, laptop, monitor and TV missing from Plaza Extra-Tutu as they are Hamed's property. Hamed also requests that the rents collected by Nejeah Yusuf for the Triumphant Church and the auto body shop that were considered to be Partnership income before the litigation began be returned to the Partnership account and that any remaining rents collected be deposited in the Partnership account on an ongoing basis.

Dated: April 24, 2019



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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of April, 2019, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross
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CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

This document complies with the page or word limitation set forth in Rule 6-1(e).



Exhibit 9

From: Joel Holt [mailto:holtvi@aol.com]
Sent: Wednesday, November 12, 2014 1:28 PM
To: dewoodlaw@gmail.com; ghodges@dtflaw.com; cperrell@dtflaw.com
Cc: edgarrossjudge@hotmail.com
Subject: Plaza

Attached are 5 emails I have received about Yusuf Yusuf not signing the check for my client's credit cards--this is why I think the usage should stop altogether. Indeed, as noted, this game takes up the time of accounting employees caught in the middle and lawyers, all of which can be avoided if we just stop the practice. In any event, can you get your client to sign today?

Joel H. Holt, Esq.
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(340) 773-8709

EXHIBIT 9

From: mafi hamed [mailto:mafihamed@hotmail.com]

Sent: Monday, November 10, 2014 9:28 AM

To: Joel Holt; Carl Hartmann; Kim; Wally Hamed(BB); Waheed Hamed; Hisham Hamed

Subject: Credit card

Yufus yufus is holding back my credit card. I have an Amex payment that he refused to sign since Nov. 7th.

Sent from my BlackBerry 10 smartphone.

From: Maf Hamed [mailto:mafihamed@hotmail.com]

Sent: Monday, November 10, 2014 10:47 AM

To: Carl@hartmann.attorney; 'Joel Holt'; 'Kim'; 'Wally Hamed(BB)'; 'Waheed Hamed'; 'Hisham Hamed'

Subject: RE: Joel....RE: Credit card

Read below, let me know if this is ok to send.

Yusuf,

There are two issues that you caused in which need to be resolved:

1. Holding back my credit card payment:

The credit card payment for invoice #6940520 Aryzta for \$5,555.50, the charge on my AMEX credit card was made on November 6th, 2014 and the check was given to you for payment on Friday October 7th, 2014.

You have violated the agreement we had with Judge Ross. Please stop this and make the payment immediately.

2. Equal usage of the credit cards

Attached copies of payments that you made using your credit cards only, this is unfair usage of the credit cards. In our meeting with Judge Ross we agreed that the credit card usage will be 50/50 EQUALLY. As of today, you alone charged and received full payment for \$134,452.70 on the Hamed side, Wally and I combined charges for \$35,555.50 in which part of it is still pending for payment.

Please stop these games and honor the agreement we made with Judge Ross.

Sincerely,

From: mafi hamed [mailto:mafihamed@hotmail.com]

Sent: Tuesday, November 11, 2014 1:59 PM

To: Joel Holt; Carl@hartmann.attorney; kim@japinga.com; wallyhstx@yahoo.com;

Mafi's Amex Card Payment

11/12/14 1:57 PM

williemhamed@yahoo.com; shawnhamed@live.com

Subject: Re: Wait for Joel.....RE: Joel....RE: Credit card

No reply from yufus and the check is still not signed. He complained to wadda about the letter I sent.

Sent from my BlackBerry 10 smartphone.

From: Maf Hamed [mailto:mafihamed@hotmail.com]

Sent: Tuesday, November 11, 2014 2:29 PM

To: Carl@hartmann.attorney; 'Joel Holt'; kim@japinga.com; wallyhstx@yahoo.com; williemhamed@yahoo.com; shawnhamed@live.com

Subject: RE: Wait for Joel.....RE: Joel....RE: Credit card

He told Wadda, why did make him look bad in front of the judge.

His reasoning for the lop sided credit card usage is: it would take a lot of effort to get my credit card info to his brother nekeh to pay the gross receipts tax.

Then on the amex payment, he said he didn't refuse to pay it he wants ask a question about the payment. I believe its because the payment is in my name. Wadda cleared this with john gaffeny even before the check was written, jonh said he would clarify it with yufus if there is a problem, this was before the check was written last week. But yufus is still refusing to sign the check.

From: Maf Hamed <mafihamed@hotmail.com>

To: Carl <Carl@hartmann.attorney>; 'Joel Holt' <holtvi@aol.com>; kim <kim@japinga.com>; wallyhstx <wallyhstx@yahoo.com>; williemhamed <williemhamed@yahoo.com>; shawnhamed <shawnhamed@live.com>

Subject: RE: Mafi's Amex Card Payment

Date: Wed, Nov 12, 2014 1:54 pm

Attachments: arytza.pdf (1398K)

Attached is a copy of the check.

I was on the phone with Wadda when she specifically asked him about the amex payment, and he said yes he signed it. Now it show it is not signed and he says he is waiting for john gaffenye to come back from his California trip.

He is playing games.